

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2006-051932

03/01/2007

HONORABLE BRIAN R. HAUSER

CLERK OF THE COURT

L. Crawford

Deputy

IN RE THE MATTER OF  
KEVIN MACH

MAX N HANSON

AND

DESIREE JUARBE

TAWNIA RAE WIENKE

DOCKET - NE  
SUPPORT SERVICES-CCC

MINUTE ENTRY

The complaint in paternity has been under advisement.

FACTS

1. The parties, who never married, have one child in common, Isis Juarbe, born April 30, 2006.
2. The parties have stipulated that father shall pay child support of \$273.00 per month pending further order of the court. Payment shall be by wage assignment.
3. Father requests joint legal custody and some parenting time. Mother requests sole legal custody.

The parties are very young and have little history together. They have never resided together and had a brief relationship that led to mother's pregnancy. By

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their demeanor in court, an observer would conclude the parties are virtual strangers today.

4. After the child was born, father made little effort to see her. In fact, he did not see her until after the Resolution Management Conference in November, 2006. By then, Isis was six months old.
5. At the Resolution Management Conference, the court adopted the parties' agreement for parenting time for father. Since then the parties have adjusted father's parenting time to suit their schedules.
6. Except for one or two occasions, father has exercised parenting time as agreed upon.
7. Mother is critical of how father interacts with Isis when he has contact with her because the child is often fussy throughout the visit. Isis has had limited exposure to father and since mother is always present, it is not difficult to understand that Isis may frequently express a desire to return to mother. This type of artificial bonding opportunity is difficult for a child at any age and for an infant to turn to her mother, who is never out of sight, is unremarkable.

Mother also criticizes father for bringing his extended family to his parenting time. Father contends that since he lives at home with these people and he hopes to exercise parenting time at his home eventually, it is appropriate to acclimate Isis to them. The court agrees with father.

8. Father requests unsupervised daytime parenting time. Mother states that father's parenting time must be supervised because Isis still is breast feeding. Mother's position is unreasonable and not in the child's best interests. Mother claims to be a full-time student who regularly leaves Isis with her parents for blocks of time exceeding four hours. The maternal grandparents feed Isis solid food, water and expressed breast milk. Isis is capable of drinking from a cup and so she can do that during father's parenting time without mother being present. Moreover, mother testified that she must breast feed Isis lying down. This is never going to occur during father's parenting time so there is, again, no need for mother to be present.

It is sufficient for Isis's safety that father's parenting time be supervised by his mother until he achieves the parenting skills necessary to care for an infant/toddler.

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9. The parties are capable of some joint decision-making, as mother conceded in her testimony. At trial, mother agreed to an additional mid-week visit.

LAW

10. The Court has considered the factors in A.R.S. §25-403(A).

a. Wishes of parents

Father requests joint legal custody and mother requests sole legal custody.

b. Child's wishes

Not material due to her age.

c. Interaction of child with parents and others

As an infant or early toddler, Isis is demonstrating appropriate affection and reactions to both parents and their extended families considering the amount of time she spends with those individuals.

Mother's evidence that the child is fussy with father is of little weight given that Isis is most accustomed to mother, and mother is constantly present and available to Isis.

d. Child's adjustment to home

Maternal grandmother has provided Isis with a home. Each parent lives with their parent or parents. The evidence suggests that Isis would be as comfortable after a while living with father as she is living now with mother.

e. Mental and physical health of all persons involved

Mother testified that Isis has been ill twice in the past few months resulting in regression from progress towards independent feeding. Mother has used Isis's regression to feeding solely by breast, if it is true, as a weapon to deny father unsupervised visits.

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By their demeanor in court and in the positions they have taken in this case, both parents clearly are extremely immature. Father's involvement with the child was minimal until he involved his legal counsel. Waiting for those services to begin before visiting with his child was not a decision made in the child's best interests. Father's refusal to visit Isis at maternal grandmother's residence also is a poor decision.

Mother presented no evidence that father is a danger to Isis. Yet, she has erected pretextual barriers to quality parenting time for father. The court finds that mother's purported need to be available to breast feed Isis during his parenting time is not credible. Similarly, mother's objection to the presence of father's relatives during his parenting time is unreasonable since her family enjoys the same type of contact on a daily basis.

f. Which party is more likely to afford the child frequent and meaningful access to the other parent

Father has no track record in this category. Mother seems content to minimize father's access to Isis. This probably is due to the utter lack of any bond between the parents. That lack of affection, however, may not be permitted to affect Isis's relationship with father.

g. Primary caretaker of the child

Mother has fulfilled this role and father has not requested to assume it. Unlike Mother, who takes a few classes, father is a full-time student and he works 22.5 hours per week. He does not have the ability to assume the role of a primary caretaker.

All the evidence suggests that mother is ably caring for Isis.

Based on the foregoing factors, the court finds it is the child's best interests that the parties exercise joint legal custody. Mother is designated primary residential parent. Father is awarded supervised parenting time each Wednesday from 12:00 noon to 3:30 p.m. and each Saturday between 3:00 and 7:00 p.m. Father's mother or other suitable adult with experience with young children may serve as a supervisor. Supervision shall end after two months.

The receiving parent shall be responsible for transportation of the minor child. The schedule may be modified by written agreement of the parties.

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Father's parenting time shall expand to include at least one overnight when Isis reaches the age of fifteen months. The parties are to submit to mediation if they cannot agree on further modification of parenting time as Isis ages before seeking relief in this court.

IT IS ORDERED that Father shall pay to Mother as and for child support the sum of \$273.00 per month, commencing March 1, 2007, payable through the Support Payment Clearinghouse on the 1<sup>st</sup> day of each month by Wage Assignment.

IT IS FURTHER ORDERED that at any time an Order of Assignment is not paying the child support obligation in full, Father shall make full and timely payments directly to the Support Payment Clearinghouse in accordance with the "Instructions for Making Support Payments Through the Clearinghouse" attached to this minute entry.

IT IS FURTHER ORDERED settling and approving formal written Order of Assignment signed by the Court this date.

HOLIDAY SCHEDULE: (Takes priority over the regular parenting-time schedule.)

On the three-day weekends (such as Civil Rights Day, Columbus Day, Presidents' Day, Memorial Day, Labor Day, etc.) the child will remain in the care of the parent who has the child for the weekend until return to school or the other parent the following day.

Easter Sunday: The child will spend this holiday with Mother in even-numbered years and with Father in odd-numbered years.

Mother's Day: With Mother every year.

Father's Day: With Father every year.

4<sup>th</sup> of July: The child will spend this holiday with Father in even-numbered years and with Mother in odd-numbered years.

Halloween: The child will spend this holiday with Mother in even-numbered years and with Father in odd-numbered years.

Thanksgiving Day: The child will spend this holiday with Father in even-numbered years and with Mother in odd-numbered years.

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Christmas Eve: The child will spend this holiday beginning at 6:00 p.m. with Father in even-numbered years and with Mother in odd-numbered years, to be returned to the other parent's home by 8:00 a.m. Christmas Day.

Christmas Day: The child will spend this holiday with Mother in even-numbered years and with Father in odd-numbered years, from 8:00 a.m. until 10:00 a.m. December 26<sup>th</sup>.

Christmas/Winter school break: The Christmas/Winter school break shall be evenly divided with the parent who has Christmas Eve having the first one-half of the break and the other parent having the remainder of the break.

Children's birthdays: Mother will have the child on her birthday in even-numbered years and Father in odd-numbered years.

Parent's birthdays: Each parent may have the child on his/her birthday if he/she so desires.

Spring break: The Spring break shall be equally divided.

Summer: Each parent shall also have 2 weeks (1 week if the child is under age six) of continuous uninterrupted parenting time during the summer commencing on a date designated by that parent by May 1<sup>st</sup> of each year, unless otherwise agreed to. If the designations conflict, then Mother's designations shall have priority in even-numbered years and Father's shall have priority in odd-numbered years. However, summer access shall end no later than one week prior to the start of school.

The parties may deviate from this schedule only by written agreement.

IT IS ORDERED granting father's request to change the child's surname, in part.  
Mother is ordered to choose between the following surnames:

Mach  
Mach-Juarbe  
Juarbe-Mach

IT IS FURTHER ORDERED that mother shall promptly cause the child's birth certificate to be amended to reflect the above choice.

ISSUED: Order of Assignment

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FILED: Exhibit Worksheet

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure (ARFLP).

/s/ HON. BRIAN R. HAUSER

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JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.

Attachments:

MAX N HANSON: CCB-NW Non IV-D Payment Instructions, Current Employer Information